

EXHIBIT 2
DECLARATION

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March 2, 2000

John W. Olivo, Jr., Esq.
Ward & Olivo
382 Springfield Avenue
Summit, New Jersey 07901Re: Reissue Patent RE 36,377 for Collapsible Container

Dear Mr. Olivo:

Your letter of December 2, 1999 addressed to Donna Besteiro of Danone Group has been referred to me, and I have been requested to respond on behalf of Danone Group. As you are aware, we previously considered this matter in 1996 with respect to Mr. Gilbert's U.S. Patent 5,370,250.

We have carefully considered the claims of Mr. Gilbert's Reissue Patent RE 36,377, its prosecution history, and applicable prior art in relation to the axially crushable containers used by Danone Group in the United States. It is our opinion that the claims of Mr. Gilbert's reissue patent do not cover any of the Danone Group containers. Accordingly, Danone has no interest in acquiring a license or other rights under Mr. Gilbert's patent.

Enclosed are drawings showing two types of bottles which Danone presently sells in the United States. Drawing 500-051-1 relates to an AQUAPENN bottle which is quite similar to the one shown in Danone's U.S. Patent 5,632,397 (copy enclosed). Drawing 500-018 relates to an Evian bottle which presents in its lower portion a series of six closed annular grooves that are undulating or "waved" to give a better appearance to the bottle.

In both cases, the bottle is axially crushable as shown on the label. After the bottle has been emptied, it can be irreversibly collapsed axially to compact the bottle to facilitate recycling. This is in contrast with the gradual control of the internal volume which is an essential feature of Mr. Gilbert's concept.

More specifically, you can readily see from the drawings and from actual bottles that the axial crushing is achieved through a series of corrugations having endless circular

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root portions or grooves (indicated by reference character 12 in Figure 1 of our client's '397 patent) and right cylindrical lands 11 between adjacent grooves. The grooves may additionally include formations (indicated at 62) which function as fold starters.

The original claims of Mr. Gilbert's '250 patent call for a "collapsible helical portion". We pointed out in our October 21, 1996 letter to Mr. Gilbert that the Evian bottle does not employ a collapsible helical portion in the side wall of the container. It should also be evident from the enclosed drawings that neither of the two designs have a collapsible helical portion.

The independent claims added in the reissue patent (Claims 27, 41 and 55) do not refer to a collapsible helical portion. However, they all clearly require a groove configuration which runs around the container upwardly, like a helix. For example, Claim 27 specifies that the groove portion travels around a portion of the generally cylindrical side wall structure in an upward direction away from the bottom portion and towards the top portion of the container. Similar language is present in the other independent claims.

The corrugations provided in the Danone containers in question have continuous horizontal circumferential grooves. The grooves do not travel around the side wall in an upward direction. This configuration is clearly outside of the scope of the claims.

We note from the prosecution history of the reissue application that the Patent and Trademark Office rejected the claims of the reissue patent as anticipated by the horizontal corrugations shown in Estes U.S. Patent 4,610,366, and Mr. Gilbert attempted to distinguish the Estes '366 patent by arguing that in Estes the root of the corrugation does not travel around the bottle in an upward direction. If Mr. Gilbert seeks to construe his claims so broadly as to cover continuous horizontal corrugations of the type used by Evian, then the claims would fail to distinguish over the Estes '366 patent.

We also direct your attention to the enclosed Robbins U.S. Patent 5,226,551, which in Figure 5 and column 5, lines 62 through column 6, line 23, discloses a collapsible container having a cylindrical wall structure and a collapsible surface 28 of generally uniform radius extending parallel to the central axis of the container, and being disposed between longitudinally spaced grooved portions 44 travelling around a portion of the cylindrical wall structure in an "upward" direction. We note that this patent was not considered by the Examiner in his examination of the reissue application. It appears to us that the cylindrical wall structure of Figure 5 is similar, if not identical, to what is claimed in the added reissue claims.

For the reasons noted, we believe it is abundantly clear that the claims of Mr. Gilbert's reissue patent cannot properly be construed to cover the axially crushable containers of the Danone Group, and Danone sees no basis for acquiring rights under Mr. Gilbert's patent.

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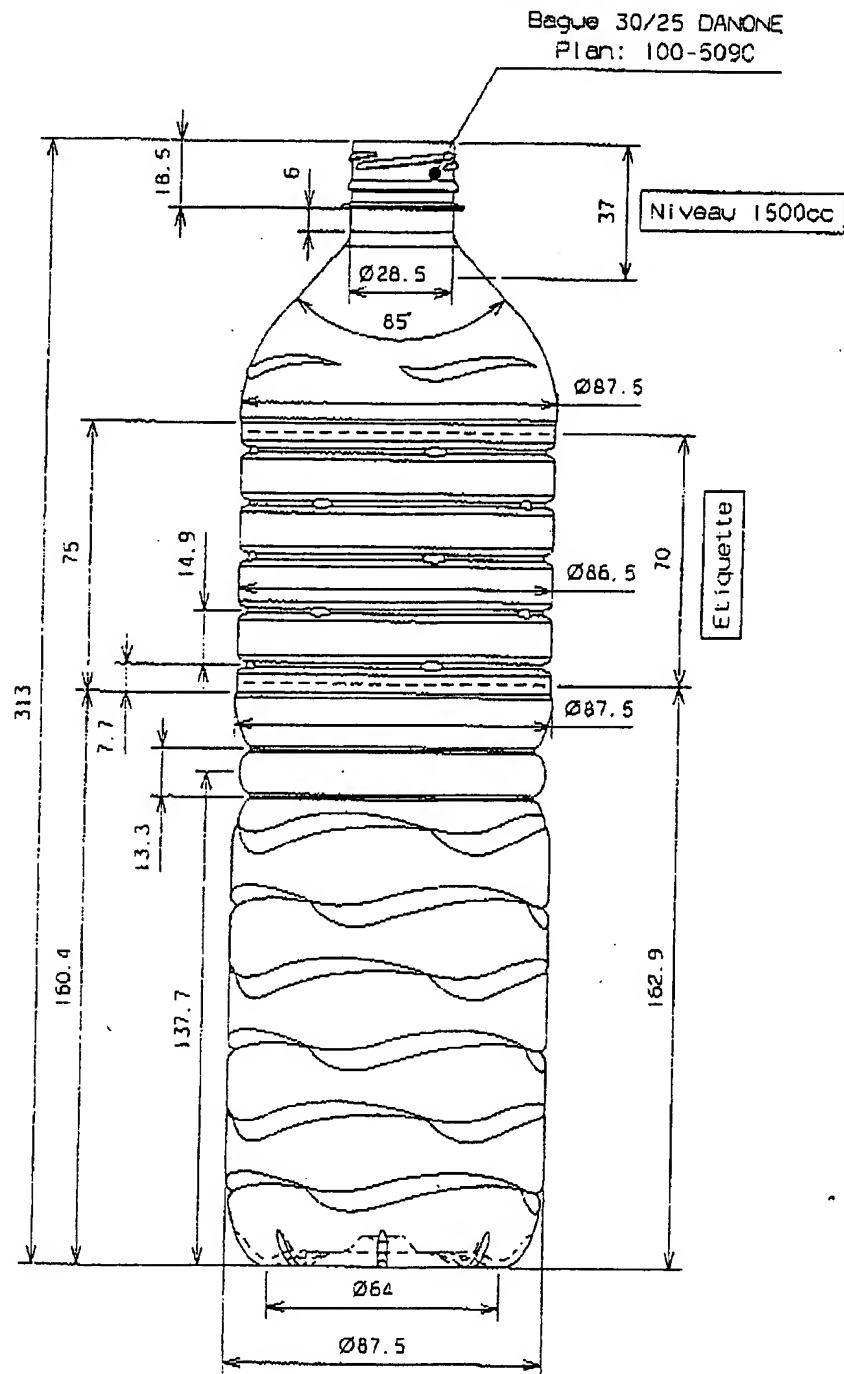
If you have any questions about our analysis or conclusions, please feel free to contact me.

Very truly yours,

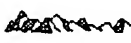
A handwritten signature in black ink, appearing to read "Raymond O. Linker, Jr.", written in a cursive style.

Raymond O. Linker, Jr.

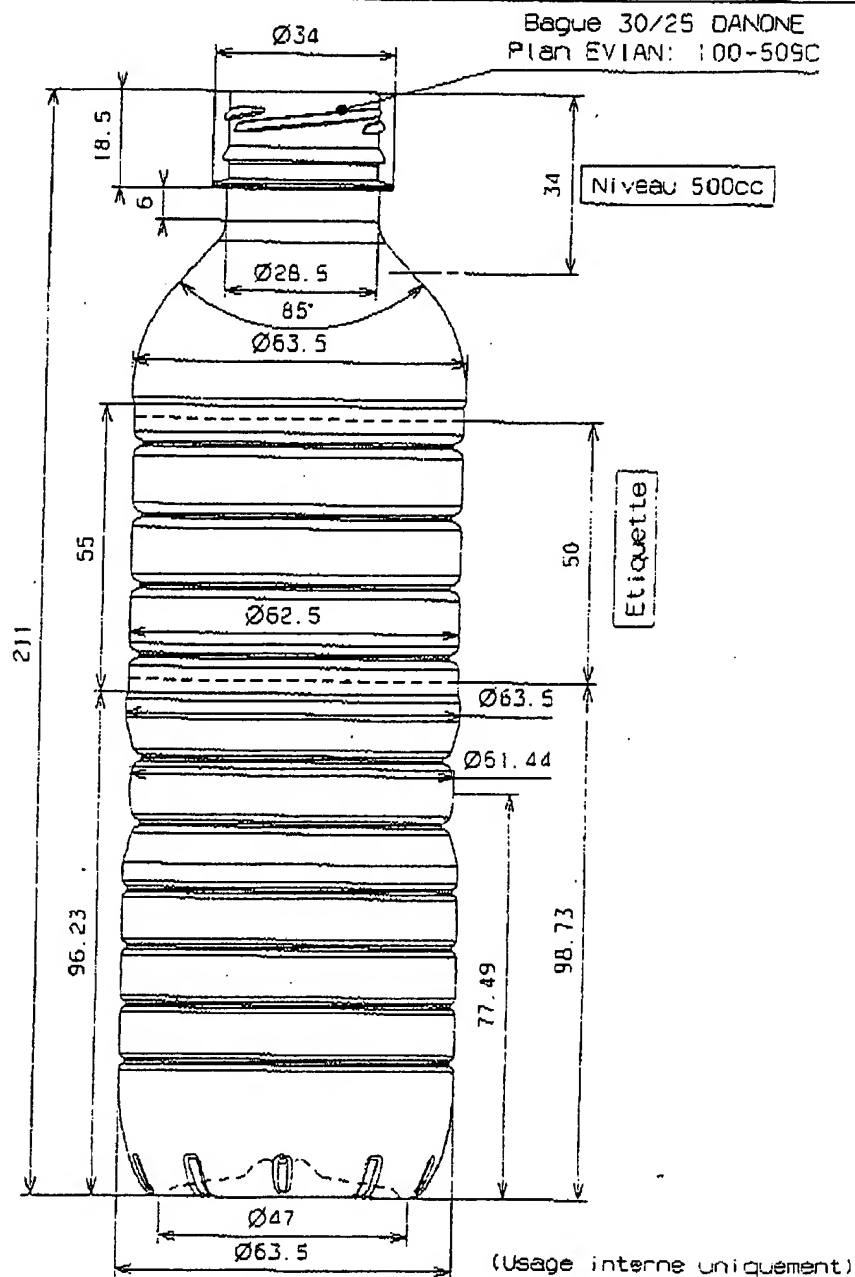
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	SPECIFICATIONS TECHNIQUES	Créé le : 20/02/97
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SPECIFICATIONS TECHNIQUES

BOUTEILLE 50CL AQUAPENN

PLAN DE DETAIL: 500-051

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